रजिस्ट्री सं० डी०एल०-33004/94 REGISTERED NO. DL-33004/94

भारत का राजपत्र
The Gazette of India

असाधारण
EXTRAORDINARY
भाग II—खण्ड 1
PART II—Section 1
प्राधिकार से प्रकाशित
PUBLISHED BY AUTHORITY

सं० 46] नई दिल्ली, सोमवार, मई 23, 1994/ज्येष्ठ 2, 1916
No. 46] NEW DELHI, MONDAY, MAY 23, 1994/JYAISTHA 2, 1916

इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।
Separate paging is given to this Part in order that it may be filed as a separate compilation.

MINISTRY OF LAW, JUSTICE AND COMPANY AFFAIRS

(Legislative Department)

New Delhi, the 23rd May, 1994/Jyaistha 2, 1916 (Saka)

THE DAMAN AND DIU MUNICIPALITIES (AMENDMENT) REGULATION, 1994

No. 6 OF 1994

Promulgated by the President in the Forty-fifth Year of the Republic of India

A Regulation further to amend the Goa, Daman and Diu Municipalities Act, 1968

In exercise of the powers conferred by article 240 of the Constitution, the President is pleased to promulgate the following Regulation made by him:—

Short title, extent and commencement.

1 (*1*) This Regulation may be called the Daman and Diu Municipalities (Amendment) Regulation, 1994.

(*2*) It extends to the whole of the Union territory of Daman and Diu.

(*3*) It shall come into force on the first day of June, 1994.

Amendment of long title.

2. In the Goa, Daman and Diu Municipalities Act, 1968 (hereinafter referred to as the principal Regulation) for the long title, the following long title shall be substituted, namely:—

"Regulation to consolidate and amend the law relating to Municipalities in the Union territory of Daman and Diu.".

Amendment of Preamble.

3. In the principal Regulation, in the preamble, the word "Goa," shall be omitted.

Amendment of section 1.

4. In the principal Regulation,—

(*i*) in section 1, in sub section (*1*), for the words "Goa, Daman and Diu Municipalities Act" the words "Daman and Diu Municipalities Regulation" shall be substituted;

(*ii*) unless the context otherwise requires, the expression "Act" or "this Act", wherever they occur, shall be construed as references to the "Regulation".

Amendment of section 2.

5. In section 2 of the principal Regulation,—

(*a*) after clause (*1*), the following clause shall be inserted, namely:—

'(*1A*) "Administrator" means the Adminsitrator of the Union territory of Daman and Diu appointed by the President under article 239 of the Constitution;';

(*b*) for clause (*7*), the following clause shall be substituted, namely:—

'(*7*) "Collector" means the Collector of Daman or the Collector of Diu';

(*c*) in clause (*9*), the words "or co-opted or nominated" shall be omitted;

(*d*) after clause (*11*), the following clause shall be inserted, namely:—

"(11A) "district" means a district in the Union territory;";

(*e*) after clause (*14*) the following clause shall be inserted, namely:—

"(*14A*) "Election Commission" means the Commission referred to in section 5;";

(*f*) after clause (*16*), the following clause shall be inserted, namely:—

"(*16A*) "Finance Commission" means the Commission referred to in section 142A;";

(*g*) for clause (*19*), the following clause shall be substituted, namely:—

"(*19*) "Government" means the Administrator;

(*h*) clauses (31) and (*53*) shall be omitted;

(*i*) for clause (54) the following clause shall be substituted, namely:—

"(54) "Union territory" means the Union territory of territory of Daman and Diu;";

(j) after clause (55), the following clause shall be inserted, namely: —

"(55A) "ward" means the territorial constituency of the municipal area;".

Amendment of section 3.

6. In section 3 of the principal Regulation, in sub-section (1) at the end, the words, brackets and figures "in accordance with the provisions of clause (2) of article 234Q of the Constitution" shall be inserted.

Substitution of new section for section 4.

7. For section 4 of the principal Regulation, the following section shall be substituted, namely:—

Constitution of Municipalities for Daman and Diu.

"4. (*1*) There shall be constituted a Municipality each for the Daman Municipal area and the Diu Municipal area to be known respectively as the Daman Municipal Council and the Diu Municipal Council.

(2) Notwithstanding anything contained in sub-section (1) and subject to the provisions of section 298 the Daman Municipal Council and the Diu Municipal Council existing immediately before the commencement of the Daman and Diu Municipalities (Amendment) Regulation, 1994 shall continue to function till the term of the Council under section 42 of the Act expires.".

Substitution of new section for section 5.

8. For section 5 of the principal Regulation, the following section shall be substituted, namely:—

Election Commission.

"5. (*1*) With effect from such date as the President may, by notification, specify, the Election Commission constituted under section 185 of the Andaman and Nicobar Islands (Panchayats) Regulation, 1994 shall be the Election Commission for the superintendence, directions and control of the preparation of electoral rolls for, and the conduct of all elections to the Council in the Union territory of Daman and Diu.

Andaman Regulation 1 of 1994.

(2) The Administrator shall, when so requested by the Election Commission, make available to that Commission such staff which the Administrator consider necessary for discharge of the functions conferred on the Election Commission by sub-section (1).".

Substitution of new sections for section 9

9. For section 9 of the principal Regulation, the following sections shall be substituted, namely:—

Composition of Councils.

"9 (*1*) Save as otherwise provided by this Regulation, all the seats in a Council shall be filled by persons chosen by direct elertion from the wards determined under section 10 by the Election Commission:

Provided that the number of such seats shall not be less than ten and more than fifteen in a Council, the exact number of seats for each Council being determined by the Administrator by order published in the Official Gazette.

(2) In a Council, representation shall be provided for—

(i) two persons who are not less than twenty-five years of age and who have special knowledge or experience in municipal administration to be nominated by the Administrator, but they shall not have the right to vote in the meetings of the Council; and

(ii) the Member of Lok Sabha representing the Union territory."

Reservation of seats.

9A. (1) Seats shall be reserved for the Scheduled Castes and the Scheduled Tribes in every Council and the number of seats so reserved shall bear, as nearly as may be, the same proportion to the total number of seats to be filled by direct election in that Council as the population of the Scheduled Castes in the municipal area or of the Scheduled Tribes in the municipal area bears to the total population of that area, the number of such reserved seats being determined by the Administrator by order, published in the Official Gazette.

(2) Seats shall be reserved for women belonging to the Scheduled Castes or the Scheduled Tribes, from among the seats reserved for the Scheduled Castes or the Scheduled Tribes, as the case may be, the numbr of such seats being determined by the Administrator by order published in the Official Gazette, which shall not be less than one-third of the total number of seats reserved for the Scheduled Castes or the Scheduled Tribes, as the case may be.

(3) Seats shall be reserved for women, the number of such seats being determined by the Administrator, by order published in the Official Gazette, which shall not be less than one third (including the number of seats reserved for women belonging to the Scheduled Castes and Scheduled Tribes) of the total number of seats to be filled by direct election in a Council.

(4) The seats reserved for the Scheduled Castes or the Scheduled Tribes or the women under sub-sections (1) (2) and (3) shall be allotted by rotation to different wards in a Council in such manner as the Election Commission may, by order, published in the Official Gazette direct in this behalf.

(5) Nothing in this section shall be deemed to prevent persons belonging to the Scheduled Castes or the Scheduled Tribes or women for whom seats are reserved in any Council, from standing for election and being elected to any of the seats which are not so reserved

(6) The reservation of seats for the Scheduled Castes or the Scheduled Tribes shall cease to have effect on the expiration of the period specified in article 334 of the Constitution:

Provided that nothing in this sub-section shall render any person elected to any such reserved seat ineligible to continue as a Councillor during the term of the Council for which he was duly elected by reason only of the fact that the reservation of seats has so ceased to have effect.".

Amendment of section 10.

10. In section 10 of the principal Regulation, for sub-sections (*1*) (*2*), the following sub-sections shall be substituted, namely:—

"(*1*) For the purpose of election of Councillors, each municipal area shall be divided into single-member wards in such manner that the population of each ward shall, so far as practicable, be the same throughout the municipal area.

(*2*) The Election Commission shall, by order in the Official Gazette, determine,—

(*a*) the number of wards;

(*b*) the extent of each ward;

(*c*) the wards in which seats shall be reserved for the Scheduled Castes;

(*d*) the wards in which seats shall be reserved for the Scheduled Tribes;

(*e*) the wards in which seats shall be reserved for women; and

(*f*) the manner in which seats shall be rotated under sub-section (*4*) of section 9A.".

Amendment of section 11.

11. In section 11 of the principal Regulation, for sub-sections (*1*) and (*2*), the following sub-section shall be substituted, namely:—

"(*1*) The electoral roll of the Daman and Diu House of the People constituency prepared under the provisions of the Representation of the People Act, 1950 and for the time being in force as is included in a municipal area shall be divided by such officer of the Council or by such other authority as may be designated by the Election Commission in this behalf into different sections corresponding to the different wards in the municipal area; and a printed copy of each section of the roll so divided and authenticated by such officer or authority shall be the electoral roll for each ward, which shall be deemed to be the authentic electoral roll for all elections under this Act.". 43 of 1950.

Amendment of section 15.

12. In section 15 of the principal Regulation, in sub-section (*1*) for the words "twenty-five years" at both the places the words "twenty-one years" shall be substituted.

Amendment of section 16.

13. In section 16 of the principal Regulation, in sub-section (*1*), the words "whether by election, co-option or nomination" shall be omitted.

Substitution of new section for section 17.

14. For section 17 of the principal Regulation, the following section shall be substituted, namely:—

Question of disqualification to be decided by Administrator.

"17. (1) If any question arises as to whether a person has become subject to any disqualification referred to in section 16, the question shall be referred for the decision of the Administrator and his decision shall be final.

(2) Before giving any decision on any such question, the Administrator shall, obtain the opinion of the Election Commission and shall act according to such opinion.".

Substitution of new section for section 19.

15. For section 19 of the principal Regulation, the following section shall be substituted, namely:—

"19. If, at a general election or bye-election, no Councillor is elected from the ward, a fresh election shall be held to elect a Councillor from that ward.". Failure to elect.

Amendment of section 20.

16. In section 20 of the principal Regulation,—

(*i*) in sub-section (*1*), for the words "the Collector", the words "the Election Commission" shall be substituted;

(*ii*) in sub-section (*2*), for the word "Director" wherever it occurs, the words "Election Commission" shall be substituted;

(*iii*) in sub-section (*5*), after the words "ward or wards" the words "within a period of six months from the date of making such choice" shall be added.

Amendment of section 21.

17. In section 21 of the principal Regulation, sub-section (*1*) shall be omitted.

Amendment of section 22.

18. In section 22 of the principal Regulation,—

(*a*) in sub-section (*1*),—

(*a*) the words "co-option or nomination" shall be omitted;

(*b*) the words and figure "or section 21, as the case may be" shall be omitted;

(*ii*) in sub- section (*2*), in clause (*b*), the words "co-option or nomination" shall be omitted;

(*iii*) in sub-section (*3*),—

(*a*) in clause (*b*) the word"; or" shall be omitted;

(*b*) clause (*c*) shall be omitted;

(*iv*) in sub-section (*4*), clause (*d*) shall be omitted.

Amendment of section 35.

19. In section 35 of the principal Regulation, for the word "Collector" the words "Election Commission" shall be substituted.

20. For section 42 of the principal Regulation, the following section shall be substituted, namely:— Substitution of new section for 42.

"42. (*1*) Every Council, unless sooner dissolved under section 298 shall continue for five years from the date of appointed for its first meeting and no longer: Duration of Council.

Provided that a Council shall be given a reasonable opportunity of being heard before its dissolution.

(*2*) An election to constitute a Council shall be completed,—

(*a*) before the expiry of its duration specified in sub-section (*1*);

(*b*) before the expiration of a period of six months from the date of its dissolution:

Provided that where the remainder of the period for which the dissolved Council would have continued is less than six months, it shall not be necessary to hold any election under this sub-section for constituting the Council for such period.

(*3*) A Council constituted upon the dissolution of a Council before the expiration of its duration shall continue only for the remainder of the period for which the dissolved Council would have continued under sub-section (*1*) had it not been so dissolved.".

21. In section 46 of the principal Regulation,— Amendment of section 46.

(*i*) in sub-section (*2*), the words "whether elected, co-opted or nominated" shall be omitted;

(*ii*) in the "*Expyanation*" to sub-section (*4*), the words "ci-opted or nominated" at the two places where they occur and the words "co-option or nomination, as the case may be" shall be omitted.

22. In section 50 of the principal Regulation,— Amendment of section 50.

(*i*) in sub-section (*1*),—

(*a*) the words "elected, co-opted or nominated" and the words "or co-option or nomination according as the Councillor was elected or co-opted or nominated" shall be omitted;

(*b*) for the proviso the following proviso shall be substituted, namely:—

"Provided that no bye-election shall be held to fill a vacancy occurring within six months prior to the date on which the term of the Council expires.".

23. In section 51 of the principal Regulation,— Amendment of section 51.

(*i*) in sub-section (*2*) , after clause (*u*), the following clause shall be added, namely:—

"(*v*) preparation of plans for economic development and social justice and the performance of such functions and the implementation of such schemes as may be entrusted from time to time by the Administrator to a Council including those in relation to the matters referred to in sub-sections (*2*) and (*3*).";

(*ii*) In sub-section (*3*), in clause (*u*), the words, figures and letters "Rs. 150, and Rs. 100 in the case of 'A' Class, 'B' Class and 'C' Class Councils, respectively, and "Rs. 750 and Rs. 500 in the case of such Councils, respectively" ' shall be omitted.

Amendment of section 52.

24. In section 52 of the principal Regulation,—

(*i*) in sub-section (*1*),—

(*a*) the words "or deemed to be elected" shall be omitted;

(*b*) the following proviso shall be inserted at the end, namely:—

"Provided that, subject to any general or special orders of the Central Government, the Administrator shall reserve the office of the President for the persons belonging to the Scheduled Castes or Scheduled Tribes or women or backward class of citizens in the prescribed manner.";

(*ii*) in sub-section (*2*), the proviso shall be omitted;

(*iii*) sub-sections (*6*) and (*7*) shall be omitted;

(*iv*) in sub-section (*8*),—

(*A*) in clause (*a*), the brackets and letter "(*a*)" and the last word "and" shall be omitted;

(*B*) clause (b) shall be omitted.

Amendment of section 53.

25. In section 53 of the principal Regulation for the words "of the elected Councillors", the words "of the Council" shall be substituted.

Amendment of section 56.

26. In section 56 of the principal Regulation,—

(*i*) in sub-section (*1*), (*2*) and (*4*), the brackets and the words "(excluding the co-opted Councillors)" wherever they occur shall be omitted; and

(*ii*) in sub-section (*4*), the proviso shall be omitted.

Substitution of new section for section 69.

27. For section 69 of the principal Regulation, the following section shall be substituted, namely:—

Limits of powers of Committees in respect of financial sanctions.

"69. The powers of financial sanctions of the Standing Committee and the Subjects Committee of a Council shall not exceed Rs. 50,000 and Rs. 10,000 respectively:

Provided that the Standing Committee or the Council shall not sanction any project or scheme involving construction of such a road, bridge, building or drainage scheme costing over Rs 10,000, unless prior technical sanction therefor is obtained from such competent authority as the Administrator may prescribe.".

28. In section 89 of the principal Regulation, in sub-section (2),— Amendment of section 89.

(*i*) in clause (*c*), for the letters, figures and words ' 'Rs. 1,000 and Rs. 500, shall be made by the Chief Officer 'A' Class, 'B' Class and 'C' Class Council respectively,"' the words "shall be made by the Chief Officer" shall be substituted; and

(*ii*) in clause (*d*), for the words "limits" and "those limits", the words "limit" and "that limit" shall be substituted respectively.

29. In section 101 of the principal Regulation, in sub-section (*1*), in the proviso, the words "in different classes of municipal area" shall be omitted. Amendment of section 101.

30. Section 103 of the principal Regulation shall be omitted. Amendment of section 103.

31. In section 104 of the principal Regulation clauses (*i*) and (*j*) shall be omitted. Amendment of section 104.

32. Sections 131 to 134 (both inclusive) of the principal Regulation shall be omitted. Omission of sections 131 to 134.

33. In section 136 of the principal Regulation,— Amendment of section 136.

(*i*) in sub-section (*1*),—

(*a*) the words ' "of any octroi or"; "octroi or"; and "any animal or goods on which octroi is chargeable or"' shall be omitted; and

(*b*) for the words "animal or thing seized" the words "or animal seized" shall be substituted;

(*ii*) for sub-section (*2*), the following sub-section shall be substituted, namely:—

"(*2*) When the expense of keeping the property seized together with the amount of the toll chargeable is likely to exceed its value, the person seizing such property may inform the person in whose possession it was that it will be sold at once; and shall sell it or cause it to be sold accordingly unless the amount of toll demanded be forthwith paid.";

(*iii*) in sub-section (*3*) and (*4*), the words "octroi or" wherever they occur, shall be omitted.

34. Sections 137 and 138 of the principal Regulation shall be omitted Omission of sections 137 and 138.

35. After section 142 of the principal Regulation, the following section shall be inserted, namely:— Insertion of new section 142A.

Assignment of certain taxes, etc.

"142A. The Administrator, with the prior approval of the Central Government, shall—

(*a*) assign to the Council, such taxes, duties, tolls and fees levied and collected by the Central Government for such purposes and subject to such conditions and limits as may be prescribed;

(*b*) provide for making such grants-in-aid to the Council as may be determined from time to time,

by an order published in the Official Gazette.".

Insertion of new section 143A

36. After section 143 of the principal Regulation, the following section shall be inserted, namely:—

Finance Commission.

"143A. With effect from such date as the President may, by notification, specify the Finance Commission constituted under section 186 of the Andaman and Nicobar Islands (Panchayats) Regulation, 1994 shall also be the Finance Commission for the Union territory of Daman and Diu and shall make recommendations to the Administrator as to,— Andaman Regulation 1 of 1994.

(*a*) the principles which should govern,—

(*i*) the determination of the taxes, duties, tolls and fees which may be assigned to or appropriated by, the Council;

(*ii*) the Grants-in-aid to the Council.

(*b*) the measures needed to improve the financial position of the Council;

(*c*) any other matter referred to the Finance Commission by the Administrator in the interests of sound finance of the Council".

Insertion of new sections 184A and 184B.

37. After section 184 of the principal Regulation, the following sections shall be inserted, namely:—

Preparation of development plan.

"184A. Every Council shall prepare every year a deveolpment plan and submit it to the District Planning Committee constituted under section 184B.

District Planning Committee.

184B. (*1*) The Administrator shall constitute for all the Districts of the Union territory one District Planning Committee to consolidate the plans prepared by the Panchayats and the Councils in the Union territory and to prepare a draft development plan for the Union territory as a whole.

(*2*) The District Planning Committee shall consist of,—

(*a*) the Development Commissioner who shall be the Chairperson of the Committee;

(*b*) three members, who shall have special knowledge or experience in planning, economic, financial and such other matters as may be prescribed, to be nominated by the Administrator; and

(*c*) fifteen members, who shall be elected by and from amongst, the elected members of the District Panchayat and of the Councils in the Union territory in proportion to the ratio between population of the rural areas and of the urban areas in the Union territory.

(*3*) The Committee shall perform such other functions as may be prescribed.

(*4*) The District Planning Committee shall, in preparing the draft development plan,—

(*a*) have regard to—

(*i*) matters of common interest between the Panchayats and the Councils including spatial plannng; sharing of water and other physical and natural resources, the integrated development of infrastructure and environmental conservation;

(*ii*) the extent and type of available resources whether financial or otherwise;

(*b*) consult such institutions and organisations as the Administrator may by order, specify.

(*5*) The Chairperson of the Committee shall forward the draft development plan, as recommended by it, to the Administrator.".

Substitution of new section 298 for sections 298 to 302.

38. For sections 298 to 302 (both inclusive) of the principal Regulation, the following section shall be substituted, namely:—

Dissolution of the Council

"298 (*1*) If, in the opinion of the Administrator,—

(*a*) the Council is not compentent to perform duties imposed upon it by or under this Regulation or any other law for the time being in force; or

(*b*) persistently makes default in the performance of such duties, or in complying with the lawful directions and orders issued by the Collector, the Director, the Administrator or any other authority empowered under any law for the time being in force to issue such direction or orders to the Council; or

(*c*) exceeds or abuses its powers; or

(*d*) a situation has arisen in which the administrator of the Council cannot be carried out in accordance with the provisions of this Regulation; or

(*e*) the finanial position and the credit of the Council is seriously threatened,

the Administrator may, by an order published together with a statement of reasons therefor, in the Official Gazette, dissolve the Council:

Provided that the Council shall be given a reasonable opportunity of being heard before its dissolution.

(2) When the Council is dissolved by an Order under sub-section (1),—

(a) all Councillors shall, on the date of dissolution, vacate their office as such Councillors and the persons referred to in sub-section (2) of section 9 shall cease to be represented in the Council;

(b) during the period of dissolution of the Council, all the powers and functions vesting in or exercisable by the Council, the President, the Vice-President, the various Committees, the Councillors and the Chief Officer under this Regulation or any other law, for the time being in force, shall vest in and be exercisable by such officer or authority as the Administrator may appoint in that behalf.

(c) all property vested in the Council shall, until it is re-constituted, vest in the Central Government.

(3) Subject to the provisions of section 42, an election to constitute the Council shall be completed before the expiration of a period of six months from the date of its dissolution.".

Omission of section 333.

39. Section 333 of the principal Regulaiton shall be omitted.

Amendment of section 334.

40. In section 334 of the principal Regulation—

(i) after the words "of this Act", the words, brackets and figures "or the Daman and Diu Municipalities (Amendment) Regulation, 1994" shall be inserted; and

(ii) in the proviso, the words "or from the date of commencement of the said Regulation" shall be added at the end.

Omission of Schedule I.

41. Schedule I to the principal Regulation shall be omitted.

SHANKER DAYAL SHARMA,
President.

K. L. MOHANPURIA,
Secy. to the Govt. of India.

PRINTED BY THE MANAGER, GOVERNMENT OF INDIA PRESS, MINTO ROAD, NEW DELHI AND PUBLISHED BY THE CONTROLLER OF PUBLICATIONS, DELHI, 1994.